

REMARKS

In response to the Restriction Requirement, Applicants hereby provisionally elect, with traverse, the invention of Group II, claims 17-25, this group being drawn to multimeric molecules where D/D' is a ligand for CD40L.

In response to the Species Election Requirement, Applicants hereby provisionally elect, with traverse, the compound L4 as shown on page 23 of the specification as elected species for examination on the merits. It is respectfully submitted that at least claims 17-21 and claims 23-25 are readable on the elected species.

The grounds for traversal are as follows.

The instant application is a 371 National stage application of PCT/FR03/01613, and thus, PCT rules should apply under these circumstances.

PCT Rule § 13.1 states, "The international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention")". PCT Rule § 13.2 provides that "Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule § 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those

technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art". Thus, the requirement is art-based.

Applicants respectfully traverse the Examiner's objection for absence of a common technical feature among Groups I-XVIII. Applicants submit that the Official Action fails to satisfy the requirements of PCT Rule § 13.1 and PCT Rule § 13.2.

The Office takes the position that the claims lack unity of invention, because the technical feature therein is not a contribution over the prior art of ROSENBERG et al. (WO 99/52877). In this regard, the Office argues that ROSENBERG teaches multimeric receptor antagonists having a variety of structure, including a trimeric core and ligands for a variety of receptors. Applicants respectfully disagree.

According to ROSENBERG, several receptors described in the present application (e.g. EPO, TGF $\alpha$ , EGF, GHR, TNF $\alpha$ , TNF $\beta$ , fas, CD40 and CD27 are dimeric receptors (page 19), which is not true, as it has been found later on, that these receptors are trimeric. There is no recognition of such in ROSENBERG. Indeed, ROSENBERG did not know the structure of these receptors, and yet the structure of the ligand is described referring to these receptors. So ROSENBERG is attempting to describe an unknown ligand by its binding affinity to an unknown receptor. However, it is improper to use such a disclosure as anticipatory teaching. The U.S. Court of Appeals, stated in its decision *Noelle v.*

*Lederman*, 355 F.3d 1343, 69 USPQ2d 1508, Fed. Cir. 2004, that such a description is not sufficient, and consequently cannot be an anticipatory teaching.

Furthermore, ROSENBERG considered the synthesis of a full multimeric receptor ligand as being straightforward (page 12). However, to Applicants' knowledge, it is not. ROSENBERG also fails to teach any synthesis of such a full ligand.

For these reasons, Applicants respectfully submit that the disclosure in ROSENBERG is insufficient, such that ROSENBERG cannot disclose or suggest each and every element of the claims. Considering these two points, Applicants respectfully submit that ROSENBERG cannot be considered as relevant to the claims.

Thus, in view of the above, Applicants respectfully submit that the present claimed invention is a contribution over the prior art and that unity of invention for Groups I-XVIII should be recognized. As a result, Applicants believe that the Official Action fails to satisfy its burden in showing that the claims lack a special technical feature.

Therefore, Applicants believe that all of the claims are sufficiently related so as to warrant a search and examination of all the claims in their full scope. Such action is respectfully requested at this time.

In the event that the Office disagrees with the traversal and maintains the Restriction requirement, then kindly consider the possibility of rejoinder of the non-elected subject

matter, upon a determination of allowance of the election invention, per U.S. practice and M.P.E.P. § 821.04.

Also, please consider and examine additional species, upon a determination of allowance of the generic claims, in accordance with U.S. election of species practice.

Favorable action on the merits is solicited.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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